

The Applicants originally submitted Claims 1-21 in the application. Presently, the Applicants have neither amended, canceled nor added any Claims. Accordingly, Claims 1-21 are currently pending in the application.

#### **I. Provisional Rejection**

The Examiner has provisionally rejected Claims 1-21 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-21 of copending Application No. 09755992. In rejecting these claims, the Examiner has asserted that although the conflicting claims are not identical, they are not patentably distinct from each other. In response thereto, the Applicants respectfully submit a terminal disclaimer with this Request that removes the basis for the double patenting, and thereby, places all the pending claims in this case in condition for allowance.

#### **II. Rejection of Claims 1, 8 and 15 under 35 U.S.C. §102**

The Examiner has rejected Claims 1, 8 and 15 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,381,469 to Ogawa (Ogawa). Independent Claims 1, 8 and 15 currently require that the resistor layer interpose a portion of the conductive layer and the piezoelectric substrate. In contrast to that currently claimed in independent Claims 1, 8 and 15, Ogawa teaches that its resistive layer 19 is located over and contacting one side of a ferro electric ceramic plate 4. (See, Fig. 1A-3) A teaching of forming a resistive layer 19 over and contacting one side of a ferro electric plate 4 is dissimilar to forming a resistor layer that interposes a portion of the conductive layer and the piezoelectric substrate.

Therefore, Ogawa does not disclose each and every element of the claimed invention and as such, is not an anticipating reference. Accordingly, the Applicants respectfully request the Examiner to withdraw the §102 rejection with respect to these Claims.

### III. Rejection of Claims 2-7, 9-14 and 16-21 under 35 U.S.C. §103

The Examiner has rejected Claims 2-7, 9-14 and 16-21 under 35 U.S.C. §103(a) as being unpatentable over Ogawa in view of U.S. Patent No. 4,684,841 to Este (Este). As established above, Ogawa fails to teach the element that the resistive layer interposes the conductive layer and the piezoelectric substrate. Similarly, Ogawa fails to suggest such an element.

Este also fails to teach or suggest such an element. As illustrated in Este's Fig. 1, Este teaches forming its acoustic wave absorber region 26 over the substrate 20. However, Este also fails to teach or suggest that the resistive layer interposes the conductive layer and the piezoelectric substrate. Accordingly, similar to Ogawa, Este teaches and suggests forming, what the Examiner asserts is a resistive layer, over the substrate, and not between the conductive layer and the piezoelectric substrate.

Accordingly, Ogawa, individually or in combination with Este, fails to teach or suggest the invention recited in independent Claims 1, 8 and 15 and their dependent claims, when considered as a whole. Thus, the combination of Ogawa and Este fails to establish a prima facie case of obviousness with respect to the claims. Claims 2-7, 9-14 and 16-21 are therefore not obvious in view of Ogawa and Este.

In view of the foregoing remarks, the cited references do not support the Examiner's rejection of Claims 2-7, 9-14 and 16-21 under 35 U.S.C. §103(a). The Applicants therefore respectfully requests that the Examiner withdraw the rejection.

**IV. Conclusion**

In view of the foregoing remarks, the Applicants now sees all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicit a Notice of Allowance for Claims 1-21.

The Applicants requests the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application.

Respectfully submitted,

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